



P.O. Box 11372
Mt. Meru Post Office
Arusha, Tanzania
info@ccr-tz.org
www.ccr-tz.org

Press Release
27th November 2009,

We may celebrate 20 years of child rights and a new Tanzanian Law of the Child, but we have a long way to go before they translate into protection of Tanzanian children.

It is with great concern that the Caucus for Children's Rights experienced the challenges that Tanzania faces in making a reality of child rights. On the day that the world celebrated the 20th Anniversary of the United Nations Convention on the Rights of the Child we were present in the Tanzanian High Court to hear the judgment of a long-running case for the repeal of laws that perpetuate the round-up and detention of street children by Municipal authorities.

In 2007, members of the Caucus for Children's Rightsⁱ lodged a Constitutional case arguing for the repeal of the Township (Removal of Undesirables Persons) Ordinance, the Destitute Persons Act, and a Declaration that sections 14(h) and 28 (b) of the Criminal Procedure Act and sections 176(2) and 177 of the Penal Code were all unconstitutional and therefore of no legal effect. This was an attempt to end the long-standing practice in many Tanzanian Municipalities of rounding up street children, on the ground that such children were undesirable. The Caucus members argued that the laws and round-ups were contrary to Article 15 of the Constitution, in that they permit children to be arrested, detained or otherwise deprived of their liberty, and that this serves no legitimate purpose. They also argued that this response to children on the streets is disproportionate, unreasonable, arbitrary and with insufficient procedural safeguards. Both the Townships (Removal of Undesirable Persons) Ordinance and the Destitute Persons Act are contrary to Article 17 of the Constitution, in that they infringe the right of all citizens of Tanzania to move freely in the United Republic and to live in any part of the United Republic. Finally, all four laws are contrary to Articles 12 and 13 of the Constitution, in that they (i) fail to treat children differently to adults and (ii) treat street children differently than other children. This is unlawful discrimination and contrary to the principle of equality.

The case has been in process for almost two years and during that time the principle of the best interests of the child and their right to live free from discrimination has been committed to in Tanzania's new Law of the Child. However, this judgment demonstrates how far we still have to go to ensure that the best interest of children prevails. Critically, the judges argued that it was in the public interest to protect cities and municipalities from



Half of Tanzania's population is under the age of 18. The FUTURE is NOW.
Learn more and join the 50% Campaign to Protect Children: www.50campaign.org

undescribable, destitute and idle persons. Thus, that it was in the public interest to criminalise people by their status and their poverty. They also argued that it was not in the public interest for children to be treated differently from adults. The effect of this judgement is that it remains legal to arbitrarily detain any child is on the streets without adult supervision.

The Caucus for Children's Rights will be appealing the Court's decision.

For more information contact:

Francis Kiwanga: Email: fkiwanga@humanrights.or.tz +255 787229933

Kate McAlpine: Email: info@ccr-tz.org +255 787 603334

ⁱ Petitioners for the case were East African Law Society, Legal and Human Rights Centre and Mkombozi. Technical assistance was provided by Advocates for International Development and financial support from the Railway Children.